UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,866	11/19/2001	Yoshitoshi Kurose	FUJO19.189	2344

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EXAMINER
JOO, JOSHUA

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
Office Action Summary		09/989,866	KUROSE ET AL.
		Examiner	Art Unit	
		Joshua Joo	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 February 2006</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-15</u> is/are pending in the application.

　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-15</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>19 November 2001</u> is/are: a)☐ accepted or b)☒ objected to by the Examiner.

　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　a)☐ All b)☐ Some * c)☐ None of:

　　1.☐ Certified copies of the priority documents have been received.

　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　Paper No(s)/Mail Date <u>12/6/05</u>.

4)☐ Interview Summary (PTO-413)
　Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Response to RCE/Amendment filed 2/7/2006

1.   Claims 1-15 are presented for examination.

Drawings

2.   Figures 1-2 should be designated by a legend such as --Prior Art-- because only that
which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37
CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.
The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per
37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not
accepted by the examiner, the applicant will be notified and informed of any required corrective
action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

4.   Claims 3-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for
failing to particularly point out and distinctly claim the subject matter which applicant regards as
the invention.

   i)   As per claim 3, the intending meaning of the limitation of "a route comparison section
            communications route used prior to a new network service request with a
            communications route determined by the priority route selecting section" is not clear.
            Does Applicant mean, "a route comparison section *comparing a* communication route
            used prior..."?

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 1, 6, and 11 are rejected under 35 U.S.C. 102(e) as being unpatentable by

Baugher et al, US Patent #6,101,549 (Baugher hereinafter), in view of Baugher et al, US Patent

#5,581,703 (Baugher '703 hereinafter).

7.   As per claims 1, 6, and 11, Baugher teaches substantially the invention as claimed

including a method, and computer-readable storage medium, where at least one first device

which responds to a network service request and at least one second device which does not

respond to the network service request are connected and said second device having a setting

of which can be modified from outside said second device, Baugher's teachings comprising:

a network information collecting section for obtaining information about a network

service provided by the first device, responsive to the network service request, by

communicating with said first device (Col 5, lines 29-38. Proxy host receives information

regarding requested service and the parameters of the requested service. Col 2, lines 39-41.

Hosts are used to implement proxy control of resource reservation.);

a setting device determining section for specifying the second device which does not

respond to the network service request based on information from the network information

collecting section (Col 1, lines 25-39; Col 2, lines 39-44. Proxy host may control resource

reservation because hosts may not be configured for bandwidth reservation protocol. Col 5,

lines 44-49. Proxy host sends RESV or PATH messages on behalf of hosts. Col 5, lines 29-39.

Receive parameters and indication for requested service and information of hosts receiving

proxy service.);

a service mapping section for mapping network service parameters to be set into

parameter values corresponding to the second device specified by the setting device

determining section (Col 5, lines 44-49. Message is send to receiving host on behalf of

requesting host. Col 5, lines 29-39. Parameters for requested service.); and

a service setting section for communicating with the second device setting the parameter

values obtained by the service mapping section in the second device(Col 5, lines 18-26, 44-49.

Proxy host sends RESV or PATH messages on behalf of hosts to receiving hosts.),

thereby said service allocating device responds to the network service request by

controlling the parameter values of the second device allowing the second device to provide

network service corresponding to the network service provided by the first device, according to

the service requested by the first device (Col 2, lines 39-44. Proxy control of functions. Col 5,

lines 44-49. Proxy host sends RESV or PATH messages on behalf of hosts. Col 3, lines 24-42.

Message contains information required by host to allow for bandwidth reservation requests.).

8.   Baugher teaches substantial features of the claimed invention including a first device

that responds to a network service request and a second first device that does not respond to a

network service request. However, Baugher does not teach the first device receiving a network

service request from a user.

9.   Baugher '703 teaches of a host receiving a network service request from a user (Col 7,

lines 55-65; Col 10, lines 5-19).

10.   It would have been obvious to one of ordinary skill in the art at the time the invention was

made to combine the teachings of Baugher and Baugher '703 because the teachings of

Baugher '703 for receiving service request from a user would improve the system of Baugher by

providing proxy control of network functions to services related user requests, which would

improve the level of quality of service for the user.

11.   Claims 3, 4, 8, 9, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Baugher and Baugher '703, in view of Ricciulli, US Patent #6,275,470 (Ricciulli

hereinafter).

12.   As per claims 3, 8, and 13, Baugher teaches of using a proxy host to generate a

bandwidth request for routing services. However, Baugher does not teach of a service

allocating device according to claim 1, further comprising:

     a priority route selecting section selecting a device for providing a higher function of a

requested network service, of the first and second devices which are connected to the network,

and determining a communications route through which the selected devices are connected and

     a route comparison section comparing a communications route used prior to a new

network service request with a communications route determined by the priority route selecting

section.

13.   Ricciulli teaches of selecting a route for providing a higher function of requested network

service through the network nodes; determining a communications route for servicing the

request; and comparing a previously used route with the newly selected route (Col 4, lines 16-

53).

14.   It would have been obvious to one of ordinary skill in the art at the time the invention was

made to combine the teachings of Baugher, Baugher '703, and Ricciulli because the teachings

of Ricciulli of Paragraph 13 would improve the quality of service of the system of Baugher and

Baugher '703 by providing improved forwarding path that provides better service to user's

intended destinations.

15.   As per claims 4, 9, and 14, Baugher teaches of using a proxy host to generate a

bandwidth request for routing services. Baugher does not teach the service allocating device

according to claim 3, further comprising a route setting generating section determining a

communications route suitable for provision of the new network service based on a comparison

result obtained by the route comparison section, which performs control so that the new network

service can be provided, using a communications route determined by the route setting

generating section.

16.   Ricciulli teaches of determining route suitable for provision of the new network service

based on comparison results, and using the determined communications route so that the new

network service can be provided (Col 4, lines 38-52).

17.   It would have been obvious to one of ordinary skill in the art at the time the invention was

made to combine the teachings of Baugher, Baugher '703, and Ricciulli because the teachings

of Ricciulli of Paragraph 16 would improve the quality of service of the system of Baugher and

Baugher '703 by providing routing changes that would improve forwarding paths and better

service.

18.   Claims 2, 5, 7, 10, 12, and 15 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Baugher and Baugher '703, in view of Bertin et al, US Patent #5,687,167

(Bertin hereinafter).

19.   As per claims 2, 7, and 12, Baugher does not teach of a service setting storing section

storing setting contents of the first and second devices, which respond to previous network

services, and a service competition calculating section checking a competition relation between

network service requests from a plurality of users based on information stored in the service

setting storing location, adjusting the competition relation, and determining the setting contents

of the first and second devices so as to respond to the network service to be provided.

20.   Bertin teaches of storing priority information for network services (Col 2, line 51-44; Col

14, lines 24-33); checking relation between network service requests from a plurality of users

based on stored information; adjusting the priorities of users; and determining the setting

contents to respond to the network service to provided (Col 13, line 64 – Col 14, line 37; Col 17,

lines 15-25).

21.   It would have been obvious to one of ordinary skill in the art at the time the invention was

made to combine the teachings of Baugher, Baugher '703, and Bertin because all three

teachings provide reservation of bandwidth to ensure a stable network connection.

Furthermore, the teachings of Bertin of Paragraph 20 would improve the system of Baugher and

Baugher '703 by efficiently managing traffic to accommodate connections with data of different

characteristics and different levels of required service.

22.   As per claims 5, 10, and 15, Baugher does not teach of the service allocating device

according to claim 2, further comprising:

        a service stoppage request generating section obtaining information about a network

service provision state of the first device, detecting provision stoppage of a network service by

the first device based on the network service provision state information, and generating a

service stoppage request,

a service setting storing section storing a plurality of setting information to the first and

second devices, which correspond to a network service that existed before provision stoppage

of the network service is detected, and

a service competition calculating section calculating a service competition relation that is

modified by the detected provision stoppage of the network service according to both the

service stoppage request and storage information of the service setting storing section.

23.   Bertin teaches of a service allocating system, wherein the system stores the setting

information for user connections, and is capable of modifying services based on priorities,

bandwidth availability, and termination of connections (Col 13, lines 30-47; Col 14, lines 1-37).

24.   It would have been obvious to one of ordinary skill in the art at the time the invention was

made to combine the teachings of Baugher, Baugher '703, and Bertin because all three

teachings provide reservation of bandwidth to ensure a stable network connection.

Furthermore, the teachings of Bertin of Paragraph 23 would improve the system of Baugher and

Baugher '703 by adjusting network services to service users based changing conditions in the

network and on user requests.

Response to Arguments

25.   Applicant's arguments filed 2/7/2006 have been fully considered but they are not

persuasive. Applicant argued that (1) Baugher fails to suggest any means for reserving the

resource of a relay router; (2) In contrast to the device according to Baugher, the service

allocating device in a network according to claim 1 is associated with a feature in which the

claim 1 constituting functions, in cooperation enable one of the end-hosts to reserve a resource belonging to another of the end-hosts even if an associated network includes a relaying router that does not respond to an RSVP; (3) Because Levanos is based on an environment in which all are provided with equivalent functions, Levanos nor Baugher disclose or even suggest the configuration according to claim 3; and (4) Bertin, similarly to either Baugher or Livanos, assume a homogenous network in which a network contains nodes, each being provided with an equivalent set of functions. The configuration associated with claim 2 is not taught or anticipated in Bertin or by any combination with Baugher or Livanos.

Examiner traverses the arguments:

26.   As to point (1), in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Means for reserving resource in a router) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

27.   As to point (2), in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Functions to enable one of the end-hosts to reserve a resource belonging to another of the end-hosts even if an associated network includes a relaying router that does not respond to an RSVP) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

28.   As to point (3), Examiner has withdrawn the rejection of claim 3 by Levanos. Claim 3 is

now rejected Baugher and Baugher '703, in view of Ricciculli.

29.   As to point (4), even though Bertin may not disclose of a heterogeneous network,

Baugher teaches of a system wherein hosts are not configured for certain protocols, therefore a

heterogeneous system. Furthermore, Bertin teaches the limitations of claim 2 (Col 2, line 51-44;

Col 13, line 64 – Col 14, line 37; Col 17, lines 15-25). It would have been obvious to one of

ordinary skill in the art at the time the invention was made to combine the teachings of Baugher,

Baugher '703, and Bertin with the motivation that the teachings of Bertin would improve the

system of Baugher and Baugher '703 by efficiently managing traffic to accommodate

connections with data of different characteristics and different levels of required service.

        Lastly, the Examiner cannot show nonobviousness by attacking references individually

where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413,

208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.

1986).

Conclusion

30.   This action is non-final due to Applicant's filing of RCE.

31.   A shortened statutory period for reply to this Office action is set to expire THREE

MONTHS from the mailing date of this action.

32.   Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Joshua Joo whose telephone number is 571 272-3966. The examiner can

normally be reached on Monday to Thursday 8AM to 5PM and every other Friday.

33.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John A. Follansbee can be reached on 571 272-3964. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

34.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 22, 2006
JJ

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100